

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|--------------------------|---|----------------------|
| RICHARD OTTO HANSEN, |) | |
| |) | 4:05cv3232 |
| Plaintiff, |) | |
| |) | MEMORANDUM AND ORDER |
| vs. |) | |
| |) | |
| UNITED STATES MARSHAL'S |) | |
| SERVICE FOR THE DISTRICT |) | |
| OF NEBRASKA, et al., |) | |
| |) | |
| Defendants. |) | |

This matter is before the court on filing no. 42, the Judgment by the Eighth Circuit Court of Appeals dismissing the appeal (filing no. 25) by the plaintiff, Richard Otto Hansen, and assessing the \$455 appellate filing and docketing fees against Mr. Hansen. Because the plaintiff is a prisoner subject to the Prison Litigation Reform Act, the Eighth Circuit's Judgment states in pertinent part: "The full \$455 appellate and docketing fees are assessed against appellant. Appellant will be permitted to pay the fee by the installment method contained in 28 U.S.C. section 1915(b)(2). The court remands the calculation of the installments and the collection of the fees to the district court."

The Eighth Circuit has instructed this court to assess an initial partial appellate filing fee in a reasonable amount based on information available to the court. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). In another of the plaintiff's cases pending in this court, Case No. 4:06cv3211, Hansen v. Doe, I entered a Prisoner Payment Order on December 14, 2006, calculating an initial partial filing fee of \$1.01 based on the plaintiff's trust account information received in that case. I will assess the same initial appellate fee in this appeal, subject to availability of funds in the plaintiff's inmate trust account. The remainder of the \$455 fees shall be collected in installments in the manner specified by 28 U.S.C. § 1915(b)(2).

THEREFORE, IT IS ORDERED:

1. That the Eighth Circuit Court of Appeals has adjudged the plaintiff liable for the full \$455 appellate filing and docketing fees;

2. That, because the plaintiff is a prisoner, the fees may not be waived but may be paid in installments pursuant to 28 U.S.C. § 1915(b);

3. That the plaintiff's custodian shall collect from the plaintiff's inmate trust account an initial partial appellate filing fee of \$1.01, and shall remit that amount to the Clerk of Court as funds become available;

4. That, thereafter, all present and future custodians of the plaintiff shall collect and remit the balance of the \$455 appellate filing and docketing fees in the manner required by 28 U.S.C. § 1915(b)(2); and

5. That the Clerk of Court shall send a copy of this Memorandum and Order to the appropriate financial officer for the plaintiff's institution.

January 4, 2007.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge